

## Material Relied Upon

1. Economic Impact Assessment
2. Shell Egg Advisory Committee meeting minutes, January 7, 2015
3. Excerpt of *General U.S. Statistics, Egg Industry Fact Sheet, Revised February 2015*, showing national egg production numbers and California's national ranking.
4. Sample *Bill of Lading* to show how shell eggs containers are labeled and packaged for shipment to distribution centers for sale in California [or transported through California to another state].

**DEPARTMENT OF FOOD AND AGRICULTURE  
MEAT, POULTRY AND EGG SAFETY BRANCH  
ECONOMIC IMPACT ASSESSMENT**

**Subject Matter of Proposed Regulations**

Shell Egg Food Safety: Inspection of Records, Invoices, and Premises

**Section(s) Affected**

Amend section 1358.4 of Title 3 of the California Code of Regulations

**Business Impact**

The Department of Food and Agriculture (Department) has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

The Department has made an initial determination that the proposed regulatory action will have no significant, statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states.

The Department has made an initial determination that this regulatory proposal will impact the shell egg and shell egg food products industry, including persons required to be registered with the Department to market shell eggs and shell egg food products in the state in accordance with Food and Agricultural Code sections 27531 and 27541. The Department's proposal affects small businesses.

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

These determinations are based on the fact that this proposal augments and expands upon the record keeping requirements for egg registrants to include the inspection of records, invoices, and premises where egg laying hens are housed if the eggs from those hens are destined for sale to California consumers and are intended for human consumption in accordance with 27521, 27531, 27541 and 27680 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

**Persons/Businesses affected by this proposal:**

- There are approximately 2,130 egg registrants. Of that number 1,854 are in-state and 276 are out-of-state.
- Geographically, commercial egg production in the western United States is concentrated in California, and in the eastern United States is centered in Ohio, Indiana, Iowa, and Pennsylvania. Other States in which major producers are located include Texas, Minnesota, and Georgia. Over 4,000 farm sites have approximately 3,000 or more egg-laying hens, representing 99 percent of all domestic egg-laying hens and accounting for 99 percent of total egg production. There are an additional approximate 65,000 farms with fewer than 3,000 egg-laying hens, accounting for the balance of eggs produced. The Department's inspectors, or a certifying agent, conduct random audits, both in-state and out-of-state, of egg registrants' compliance with specified standards in accordance with Food and Agricultural Code section 27680 and Title 3, California Code of Regulations section 1358.4.

Anticipated compliance requirements as a result of this proposal:

- ***Record keeping requirement:***

Egg registrants are required to keep certain records or invoices as specified in existing regulation section 1358.4. This proposal expands upon that requirement by adding that egg registrants shall keep and maintain records, invoices and documents relating to farm and facility operations for at least three years from the date the shell eggs and egg food products are shipped to, or within, California, that are intended for human consumption to California consumers. The Department believes this proposal does not adversely affect businesses or small businesses engaged in marketing eggs in California. The Department believes the three-year requirement is necessary and is reasonable as any needed investigation into a food borne illness outbreak would require inquiry into records up to, but no longer than, the period of three years. This requirement is not anticipated to incur increased costs to businesses as record keeping is an existing standard business practice for persons marketing eggs in California. The Department's inspectors [or certifying agents] conduct random audits, both in-state and out-of-state, of egg registrants' compliance with specified standards in accordance with Food and Agricultural Code section 27680 and Title 3, California Code of Regulations section 1358.4. The maintenance and inspections of all records, invoices, and related documents provides an additional mechanism for disease traceability that are critical to solving and ceasing food borne illness events, such as Salmonella in shell eggs, which will protect the health and welfare of the public.

**Benefits of the proposed regulation to the health and welfare of California residents, worker safety, and the State's environment**

The proposed regulation benefits human health and welfare, worker safety, and the environment by serving to verify egg registrants' compliance with pathogen reduction measures that are intended to ensure that shell eggs and shell egg food products are safe and wholesome for human consumption. This proposal benefits the shell egg and shell egg food products industry by implementing inspection and audit criteria for shell eggs and shell egg food products to ensure safe and wholesome shell eggs and shell egg products are marketed in the state.

This proposal will promote safe handling of shell eggs and shell egg food products by the industry workers as the Department will conduct an inspection of the premises where egg laying hens are housed and where shell eggs are produced and processed in accordance with section 1350 of Title 3 of the California Code of Regulations. This proposal will serve to ensure farms and facilities have mechanisms in place to prevent, mitigate and control the spread of Salmonella infection or salmonellosis, which is a bacterial disease of the intestinal tract in humans and animals. *Salmonella enteritidis* (SE) is the contamination of shell eggs during egg production. Salmonella is a group of bacteria that cause typhoid fever, food poisoning, gastroenteritis, enteric fever and other illnesses. People become infected mostly through contaminated water or foods, especially meat, poultry and eggs. Salmonella can be fatal to persons with weakened immune systems, or to infants and children in some case, but some severe cases can be affectively treated with antibiotics. Salmonella live in the intestines of birds, animals and humans. Most human infections are caused by eating food or drinking water that has been contaminated by feces (excrement). The most common ways of contracting Salmonella are from (1) uncooked meat and poultry; (2) uncooked eggs - Salmonella can be present in the eggs when laid if the chicken is infected, or; (3) lack of hygiene - kitchen surfaces that are not kept clean, lack of hand washing procedures during food preparation or handling raw meats or poultry. A person with contaminated hands can pass the infection on to other people by touching them, or touching surfaces which others then touch.

Therefore, in order to assist registered egg registrants with implementing SE prevention measures on farms and facilities and to serve to ensure compliance with the Department's statutes and regulations for shell egg food safety, the Department must clarify and specify the records, invoices, and all related documents that the Department or a certifying agent [e.g., United States Department of Agriculture (USDA) inspectors, contracted employees, and other authorized governmental representatives] will need to access during their audits and inspections. The Department routinely works with federal inspectors from the USDA and contracts with county inspectors and other state and federal governmental officials to perform inspections of the containers of shell eggs and egg food products that are intended for human consumption. The same inspectors would need access to not only the records, invoices and documents, but also the premises where the egg-laying hens are housed.

The above determinations are based on the fact this regulatory proposal is necessary for the prevention and mitigation of any potential outbreaks of food borne illnesses, such as Salmonella, in shell eggs and shell egg food products in accordance with sections 27521, 27531, and 27541 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

#### **Economic Impact Assessment Conclusion**

The Department has made an initial determination that the proposed regulatory action will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. The proposal does not affect the creation of new businesses or the elimination of existing businesses within the State of California, and does not affect the expansion of businesses currently doing business within the State of California. The proposed regulation benefits human health, worker safety, and the environment by serving to verify egg registrants' compliance with pathogen reduction intervention measures that are intended to ensure that shell eggs and egg products are safe and wholesome for human consumption. This proposal is necessary for the prevention and mitigation of any potential outbreaks of food borne illnesses, such as Salmonella, in shell eggs and shell egg food products in accordance with sections 27521, 27531, and 27541 of the Food and Agricultural Code and section 1350 of Title 3 of the California Code of Regulations.

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)  
ANIMAL HEALTH AND FOOD SAFETY SERVICES (AHFSS)  
MEAT, POULTRY AND EGG SAFETY BRANCH (MPES)  
SHELL EGG ADVISORY COMMITTEE (SEAC)  
MEETING MINUTES  
January 7, 2015**

**Location: California Department of Food and Agriculture  
2800 Gateway Oaks Blvd., Room 267  
Sacramento, CA 95833**

Item

No.

**(1) CALL TO ORDER**

Wayne Winslow, Chair, called the SEAC meeting to order at 10:02 a.m. and a quorum was established.

**(2) ROLL CALL**

Roll was taken by Tony Herrera, Egg Quality Manager, Egg Safety and Quality Management (ESQM).

**Committee Members Present:**

Wayne Winslow, Chair  
Michael Sencer, Vice Chair  
Gary Foster, Southern California Egg Cooperative  
Michael Gemperle, Gemperle Enterprises  
Glenn Hickman, Hickman Eggs  
David Will, Chino Valley Ranchers  
Kaliko Orian, Kaliko Farms  
Tom Silva, Alternate

**Committee Members Absent:**

Steve Mahrt, Petaluma Farms  
Milton O'Haire, CACASA Representative  
Richard Jenkins, Alternate

**Interested Parties:**

Tim Pelican, San Joaquin County Agriculture Commissioner  
Debbie Murdock, Pacific Egg and Poultry Association  
Bob Salazar, Hickman Eggs  
David Cisneros, Rosemary Farms  
Richard Christner, Sparobe Foods  
Mark Campbell, Hidden Villa Ranch  
Ross Dean, Centrum Valley Farms  
Peter Crane, Kaliko Farms  
Lupe Gutierrez, NuCal Foods  
Josh Karch, Southern California Egg Cooperative

**CDFA:**

Doug Hepper, Branch Chief  
Tony Herrera, Egg Quality Manager  
Ken Takeshita, Veterinarian  
Rosie Martin, Account Clerk II

**(3) APPROVAL OF MINUTES – October 24, 2014**

Chair Winslow asked the committee to review the August meeting minutes.

**Motion #1:** A motion was made by Mr. Sencer to accept the minutes. Mr. Gemperle seconded. The motion passed unanimously.

**(4) SPECIALTY TERMS AND DEFINITIONS**

After discussion by Mr. Will and the committee, it was decided this topic will be revisited at a later date.

**(5) SEFS UPDATE**

Mr. Herrera and the committee discussed the following topics:

- Phase I and II of the Regulation 1350, Shell Egg Food Safety (SEFS), Salmonella Enteritidis prevention, has been an ongoing effort of conducting audits at all applicable facilities shipping eggs into or within California.
- ESQM has hired four new employees from California Agricultural Support Services (CASS) to assist in conducting SEFS audits of all facilities.
- Companies who have not passed previous audits are being revisited and re-audited.
- Audits have been scheduled for the months of January and February.
- ESQM staff and Animal Health Branch (AHB) will be cross training to conduct Food and Drug Administration (FDA) inspections at applicable locations.
- CDFA does not have jurisdiction to conduct FDA audits outside of California. If ESQM visits facilities who have not had a FDA inspection within the last three years, ESQM will notify FDA if there are any issues discovered that need to be corrected.

**(6) REGISTRATIONS**

Mr. Herrera informed the committee the current amount of egg handler registrants has gone from 1,400 to 2,100.

**(7) DRAFT FY 2015-16 BUDGET**

Mr. Herrera provided budget documents for review. The following was discussed:

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- Possibly adding staff to assist in conducting audits.
- Staff will be retiring, and new staff will be needed. ESQM would prefer adding the additional staff now, for training purposes.
- The budget sub-committee, consisting of: Mr. Foster, Mr. Will, Mr. Winslow, Mr. Sencer, and Mr. Herrera will meet before the February SEAC meeting.

(8) **NEW SEAC OFFICERS**

After discussion, it was decided Mr. Sencer would become Chair, and Mr. Winslow will become Vice Chair.

**Motion #2:** A motion was made by Mr. Will to elect Mr. Sencer as Chair, and Mr. Winslow as Vice Chair. Mr. Silva seconded the motion. The motion passed unanimously.

(9) **PROGRAM UPDATES**

Mr. Herrera and the committee discussed the following:

- Amending Regulation 1358.4, Records and Invoices, to include Inspections. With this, all documents related to the Shell Egg Food Safety (SEFS) regulation would have to be provided when ESQM employees are conducting audits.
- It was suggested a shipping manifest be required upon all shipped eggs, confirming the egg loads are California SEFS compliant.

After discussion by the committee, it was decided language should be developed for regulation to include on a shipping manifest/document to include a California ESQM handler code, as well as "CA SEFS Compliant" to all eggs sold within the state. Additionally, the document should state "Not for California consumption" on eggs in transit through California.

Additionally, Mr. Caseri has retired as the Public Member, and that position is now vacant. SEAC members need to submit a minimum of three names for the Secretary to appoint.

A question was asked: Do donated eggs need to meet SEFS requirements? Mr. Herrera said he would pose the question to CDFA's Legal Office.

(10) **DIVISION/DEPARTMENT UPDATES**

Dr. Hepper informed the committee of Branch Chief vacancies within the division. Additionally, he informed the committee of the Avian Influenza (AI) outbreak in Washington and Oregon.

(11) **OTHER BUSINESS**

The next SEAC meeting will be held in Anaheim on Wednesday, February 25, 2015. The following meeting will be held in Sacramento on Wednesday, March 25, 2015.

(12) **ADJOURN**

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Chair Sencer asked for a motion to adjourn the meeting.

**Motion #3:** Mr. Hickman made a motion to adjourn the meeting. Mr. Silva seconded. The motion passed unanimously. The meeting adjourned at 1:07 p.m.

Respectfully Submitted:

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Rosemerry Martin



**General US Stats [Excerpt]  
Egg Industry Fact Sheet  
Revised February 2015**

United States shell egg production totaled 8.63 billion during December 2014, up 3 percent from last year<sup>1</sup>.

Table egg flock size on December 1, 2014, was 306 million layers. Rate of lay per day on December 1, 2014, averaged 79.9 eggs per 100 layers<sup>1</sup>.

The five largest egg producing states represent approximately 51 % of all U.S. layers<sup>1</sup>. Currently, the top ten egg producing states (ranked by number of layers represented in thousands) are<sup>2</sup>.

1. Iowa – 58,334
2. Ohio – 30,318
3. Indiana – 26,017
4. Pennsylvania – 24,361
5. Texas – 15,163
6. California – 14,669
7. Michigan – 12,946
8. Minnesota – 10,733
9. Georgia – 9,812
10. Nebraska – 9,447

To date, there are approximately 175 egg producing companies with flocks of 75,000 hens or more. These companies represent about 99 percent of all the layers in the United States. In 1994, there were around 350 companies with flocks of 75,000 hens or more<sup>3</sup>. Presently, there are approximately 66 egg producing companies with 1 million-plus layers that represents approximately 87 percent of total production and 17 companies with greater than 5 million layers<sup>3</sup>. As of May 2014, organic and cage-free shell egg production accounted for 5.7% of the current table egg layer flock (16.6 million hens). Of this, 2.8% are organic (8.1 million hens) and 2.9% are cage-free (8.5 million hens)<sup>4</sup>.

Of the 229.0 million cases (estimated) of shell eggs produced in 2013:

- 73.3 million cases (32.0%) were further processed (for foodservice, manufacturing, retail and export);
- 122.1 million cases (53.3%) went to retail;
- 22.9 million cases (10.0%) went for foodservice use; and
- 10.7 million cases (4.7%) were exported.

In 2013, the United States exported a total of 349 million dozen eggs, which includes shell eggs, plus processed egg products in shell egg equivalents – a 27.4% increase since 2012<sup>5</sup>.

Exports of processed egg products for the first three months of 2014 were 14,145 metric tons (MT) valued at \$38.26 million, up 33.3 and 21.7 percent year-on-year, respectively. Table egg export quantity was 34.84 million dozen, up 6.4 percent year-over-year, export value reached \$37.21 million, 20.6 percent<sup>5</sup>.

1. The National Agricultural Statistics Service's Chicken & Eggs' Report, USDA. 2. The World Agricultural Supply and Demand Estimates Report (WASDE), USDA. 3. American Egg Board. 4. USDA Poultry Market News & Analysis 5. USAPEEC.

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# SAMPLE

## BILL OF LADING

NOT NEGOTIABLE

CARRIER: [REDACTED]

SHIPPING DATE: 01/08/2015

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TO CONSIGNEE:

FROM CONSIGNOR

PO #: 18683730

ORDER	INVOICE	UNITS	PRODUCT	DESCRIPTION	WEIGHT (gwt)
148337	335132	396.000 CS	A41420S	EGGS-WHITE, GD-A, LOOSE 15DOZ LRG LOT # S-006/15 396 CS	9498.654 LB
148337	335132	240.000 CS	A41430S	EGGS-WHITE, GD-A, LOOSE 15DOZ MED LOT # S-006/15 240 CS	5081.760 LB
148337	335132	24.000 CS	A42020DPLP	EGGS, GD-A, PULP CTN CF CH 15DOZ LRG LOT # S-007/15 24 CS	589.104 LB
148337	335132	180.000 CS	A42420D	EGGS, GD-A, LGE-CF CH 15DOZ LRG LOT # S-007/15 180 CS	4317.570 LB
TOTALS		840.000			19487.088 LB

FREIGHT CHARGE	SHIPPING INSTRUCTIONS	
COD Amount \$ _____  Declared Value of Shipment \$ 28996.20	Trailer must be kept at 35°F.	Name: [REDACTED] Signature: [REDACTED] ID #: [REDACTED] State of ID: [REDACTED] Seal #: [REDACTED]

RECEIVED OF THE DATE ISSUE OF THIS ORIGINAL BILL OF LADING GOODS DESCRIBED ABOVE IN GOOD ORDER, MARKED AND DESTINED ABOVE, WHICH THE SAID TRANSPORT COMPANY AGREES TO CARRY TO ITS USUAL PLACE OF DELIVERY AT THE SAID LOCATION. THE SAID TRANSPORT COMPANY AGREES TO MAINTAIN THE INTEGRITY OF ALL GOODS DESCRIBED ABOVE WHILE TRANSPORTING THE GOODS TO THE SAID LOCATION

CONSIGNEE: [REDACTED]

CARRIER: [REDACTED]

SIGNATURE: \_\_\_\_\_

PER: [REDACTED]

DATE: \_\_\_\_\_

DATE: 1/8/15

CONSIGNEE SIGNATURE: \_\_\_\_\_

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